

### Question on Notice XX

**CHAIR:** But there is no agreement that would see, for example, an Indian or an American court recognise a finding of an Australian court in relation to the settlement of those property matters?

**Ms Saint:** There's an area within the Attorney-General's Department which deals with private international law, which deals with the enforcement of civil judgements. **I'd have to take on notice the nature of Australia's relationship with India for the committee and come back to you.** There is normally a Hague Convention that governs how those things are dealt with, to which Australia is a party. I would have to check on India's status.

**CHAIR:** And that convention would include rules of evidence about the nature of the alleged financial or other related abuse or the legitimacy of the property settlement? Would that be true?

**Ms Saint:** My understanding of that regime is it relates to the enforcement of civil orders.

**CHAIR:** Including family law and property settlements?

**Ms Saint:** Yes.

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### AGD response:

Australia is not party to any international agreements, including with India, that govern the recognition and enforcement of property orders arising from family law disputes.

Australia is a contracting state to several Hague Conventions dealing with international family law. These include the *Convention on the Recognition of Divorces and Legal Separations*, the *Convention on the Civil Aspects of International Child Abduction* and the *Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children*. These conventions do not contain any obligations for member States to recognise and enforce family law property settlement orders.

A list of states that are party to these conventions can be found here:

<https://www.hcch.net/en/instruments/conventions>. India is not a contracting state to these conventions.

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**CHAIR:** I'd be interested if you could please take on notice for me a question in relation to an example. We had an example of someone who'd been an accountant here. They'd been married for 15 years. **Their spouse returned to India and alleged dowry abuse in the Indian courts.** If there'd been a property settlement under Australian law that looked at the fairness of the property settlement, would that mitigate against any such overseas application of dowry abuse or the like?

**Ms Saint:** Yes, we can take that on notice.

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### AGD response:

It is a question for the courts in a foreign jurisdiction to determine whether Australian property orders will be recognised and enforced, including the extent to which such orders might mitigate against an application of dowry abuse in that foreign jurisdiction.

The weight given, if any, to an Australian property order in determining an application relating to dowry abuse in an overseas court is therefore a matter for the law of the foreign jurisdiction.